

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANTONIO LYNN FLUKER, JR.,

Plaintiff,

v.

GARY CARR, *et al.*,

Defendants.

Case No. 22-11992

Honorable Sean F. Cox

Magistrate Judge Elizabeth A. Stafford

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**ORDER STRIKING AMENDMENTS FILED  
WITHOUT LEAVE OF COURT (ECF NOS. 12, 20)**

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Plaintiff Antonio Lynn Fluker, Jr., proceeding pro se and in forma pauperis, sued Fifth Third Bank employee Gary Carr, alleging that he violated the Right to Financial Privacy Act (RFPA). ECF No. 5. The Honorable Sean F. Cox referred the case to this Court for all pretrial matters under 28 U.S.C. § 636(b)(1). ECF No. 31.

Under Federal Rule of Civil Procedure 15(a)(1), a plaintiff may amend a complaint “once as a matter of course within 21 days after serving it.” Rule 15(a)(1) (cleaned up). But a plaintiff has no right under Rule 15(a)(1) to file a second amended complaint. *See Synthes USA Sales, Inc. v. Taylor*, No. 3:10-1102, 2012 WL 928190, at \*1 (M.D. Tenn. Mar. 19,

2012) (stating that the Rule 15(a)(2) “right to amend once as of right applies only to initial, not amended pleadings”).

Fluker amended his complaint as a matter of course in September 2022. ECF No. 5; see Rule 15(a). But he did not seek leave and had no right to file his “superseding statement of claim” in May 2023 and his “amended complaint” in September 2023. ECF No. 12; ECF No. 20.

Fluker also did not sign the “superseding statement of claim.” ECF No. 12. He thus violated Federal Rule of Civil Procedure 11(a), which requires unrepresented parties to sign “every pleading.” An unsigned paper must be stricken “unless the omission is promptly corrected after being called to the attorney’s or party’s attention.” Rule 11(a); see *also Bakshi v. Bank of Maharashtra*, No. 2:07-CV-11214-DT, 2007 WL 1712699, at \*1 (E.D. Mich. June 13, 2007).

The Court thus **STRIKES** ECF No. 12 and ECF No. 20. If Fluker wants to file another amended complaint, he must first seek leave under Rule 15(a)(2).

**IT IS ORDERED.**

s/Elizabeth A. Stafford  
ELIZABETH A. STAFFORD  
United States Magistrate Judge

Dated: August 1, 2024

### **NOTICE TO PARTIES ABOUT OBJECTIONS**

Within 14 days of being served with this order, any party may file objections with the assigned district judge. Fed. R. Civ. P. 72(a). The district judge may sustain an objection only if the order is clearly erroneous or contrary to law. 28 U.S.C. § 636. **“When an objection is filed to a magistrate judge’s ruling on a non-dispositive motion, the ruling remains in full force and effect unless and until it is stayed by the magistrate judge or a district judge.”** E.D. Mich. LR 72.2.

### **CERTIFICATE OF SERVICE**

The undersigned certifies that this document was served on counsel of record and any unrepresented parties via the Court’s ECF System to their email or First-Class U.S. mail addresses disclosed on the Notice of Electronic Filing on August 1, 2024.

s/Donald Peruski  
DONALD PERUSKI  
Case Manager